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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,215	06/05/2001	Noel Schnake	1468	9528
28005	7590	02/07/2005	EXAMINER	
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			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,215

Applicant(s)

SCHNAKE ET AL.

Examiner

Julio R Perez

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 9/16/04 have been fully considered but they are not persuasive. The applicant argues that Marsh et al. do not teach a schedule that includes a start time indicating the beginning of presentation of a message. However, the examiner respectfully disagrees. There exists an expected time to present the time for presentation of the message as read upon col. 16, lines 65-67 and col. 17, lines 1-7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant's submission of prior art Marsh et al. (5848397).

Regarding claim 1, Marsh et al. teach a method of managing message-presentation in a subscriber station, the method comprising: sending to the subscriber station, via a communications network, a message and a time-based schedule for presentation of the message, whereby the subscriber station responsively presents the message according to the time-based schedule (col. 5, lines 29-35; col. 6, lines 22-26; col. 15, lines 31-34, scheduled messages are transferred from a server to the user's computer); wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 16, lines 65-67 and col. 17, lines 1-7).

Regarding claim 2, Marsh et al. teach the method, wherein the message comprises an advertisement (col. 3, lines 2-11; col. 6, lines 30-35, the system is suited to present advertisements to users).

Regarding claim 3, Marsh et al. teach a method of managing message-presentation in a subscriber station, the method comprising: sending to the subscriber station, via a communications network, a message and a schedule for presentation of the message, whereby the subscriber station stores the message and the schedule and is programmed to present the message according to the schedule (col. 7, lines 40-52; col. 14, lines 8-10, the system includes the ability to schedule a presentation of message and to store the schedule and message for consequent presentation); and thereafter sending to the subscriber station, via the communications network, a schedule change order defining a change to the schedule for presentation of the message (col. 16, lines 60-64, the system has the ability to update the provided schedule), wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 16, lines 65-67 and col. 17, lines 1-7).

Regarding claim 4, Marsh et al. teach the method, wherein the message comprises an advertisement (col. 6, 30-35; col. 7, lines 40-41).

Regarding claim 5, Marsh et al. teach the method, wherein the message comprises cancellation of the schedule (col. 7, lines 44-50; col. 8, lines 27-30, a banner advertisement can be replaced by a new one giving place to canceling the old one and placing a new one).

Regarding claim 6, Marsh et al. teach the method, further comprising the subscriber station responding to the schedule-change order by deleting the schedule (col. 7, lines 44-50, advertisements may be replaced, thus deleted to place new ones).

Regarding claim 7, Marsh et al. teach the method, wherein the schedule-change order includes a substitute-schedule, and wherein the change to the schedule comprises replacement of the schedule with the substitute-schedule (col. 7, lines 44-50; col. 8, lines 28-31, a replacement may take place in the order advertisements come in; in turn, replacing old ones).

Regarding claim 8, Marsh et al. teach the method, further comprising the subscriber station responding to the schedule-change order by deleting the schedule and storing the substitute-schedule, whereby the subscriber station is then programmed to present the message according to the substitute-schedule (col. 7, lines 44-50; col. 8, lines 28-31; col. 16, lines 60-64, the method is provided to delete a schedule, store a replacement to the user's computer, and display it consequently).

Regarding claim 9, Marsh et al. teach the method, wherein the schedule-change order comprises (i) a cancellation-order defining an instruction to cancel the schedule and (ii) and a schedule-order defining the substitute-schedule (col. 7, lines 44-50; col. 8, lines 28-31, the user's device possesses the software capable of obeying the instructions to cancel and replace scheduled advertisements).

Regarding claim 10, Marsh et al. teach the method, further comprising: the subscriber station responding to the cancellation-order by deleting the schedule; and the subscriber station responding to the schedule-order by storing the

substitute-schedule, whereby the subscriber station is then programmed to present the message according to the substitute schedule (col. 7, lines 44-50; col. 8, lines 28-31; col. 16, lines 60-64, the user's computer may react to a deletion of a schedule and consequently storing a new one into its memory for subsequent presentation).

Regarding claim 11, Marsh et al. teach the method, wherein the schedule defines a scheduling parameter, and the change to the schedule comprises a change to the scheduling parameter (col. 14, lines 14-22; col. 16, lines 60-64, the method may execute changes to different parameters, such as executing a schedule parameter).

Regarding claim 12, Marsh et al. teach the method, wherein the scheduling parameter comprises a date/time for presentation of the message (col. 3, lines 66-67; col. 4, lines 1-2; col. 15, lines 37-41, the method comprises a date to present a schedule).

Regarding claim 13, the method, wherein the scheduling parameter comprises a date/time to start presentation of the message (col. 3, lines 66-67; col. 16, lines 65-67; col. 17, lines 1-5, the method likewise determines a beginning of schedule presentation).

Regarding claim 14, Marsh et al. teach the method, wherein the scheduling parameter comprises a date/time to stop presentation of the message (col. 3, lines 66-67; col. 16, lines 65-67; col. 17, lines 1-5, the method provides the means for the interval of the message presentation; thus, the stop of schedule presentation).

Regarding claim 15, Marsh et al. teach the method, wherein the scheduling parameter comprises duration for presentation of the message (col. 9, lines 7-13; col.

Art Unit: 2681

15, lines 37-40, the method is able to present the schedule message for a predetermined period of time).

Regarding claim 16, Marsh et al. teach the method, wherein the scheduling parameter comprises a number of times to present the message (col. 9, lines 44-49; col. 14, lines 14-22, the scheduled message is shown for a number of times).

Regarding claim 17, Marsh et al. teach the method, wherein the scheduling parameter comprises a frequency of presentation of the message (col. 4, lines 34-37; col. 9, lines 44-49; col. 14, lines 3-8; col. 15, lines 37-40, the advertisement may be presented with such frequency; for instance, every week).

Regarding claim 18, Marsh et al. teach the method, wherein the communication network comprises an air interface communicatively coupling the subscriber station with a base station (col. 5, lines 36-49, the method may provide air interface communication for connectivity to a server).

Regarding claim 19, Marsh et al. teach the method, further comprising: sending to the subscriber station, via the communications network, a reporting request defining a request for data concerning presentation of at least one message (col. 4, lines 37-40, a message may be received by the user's device per a schedule transmitted by the server for presentation of a schedule); and receiving from the subscriber station a report defining data concerning presentation of at least one message (col. 8, lines 13-17, the user's device may send information to the server scheduler).

Regarding claim 20, Marsh et al. teach the method, wherein the reporting request defines a network address to which the subscriber station should send the report, and

Art Unit: 2681

wherein receiving the report comprises receiving the report at the network address (col. 4, lines 37-40; col. 8, lines 13-17, it is inherent as evidenced by the fact that one of ordinary skill in the art would have recognized that the user station possesses the identification of the network to which information is being sent).

Regarding claim 21, Marsh et al. teach a method for managing message-presentation in a subscriber station, the method comprising: receiving into the subscriber station, from a communications network, a message and a schedule for presentation of the message (col. 5, lines 29-35, a schedule is sent by the server system and received by the client system); storing the message and schedule in the subscriber station, wherein the subscriber station becomes programmed to present the message according to the schedule (col. 7, lines 44-46; col. 14, lines 8-10, the client system has the ability to store received message schedules and to display them accordingly); thereafter receiving into the subscriber station, from a communications network, a schedule-change order defining a change to the schedule for presentation of the message (col. 16, lines 60-64, thereby having the ability to modify the presentation of messages); and the subscriber station implementing the change and thereby becoming programmed to present the message according to a modified schedule (col. 7, lines 40-52; col. 14, lines 8-10, the method provides means for modifying and presenting new schedules), wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 16, lines 65-67 and col. 17, lines 1-7).

Regarding claim 22, Marsh et al. teach the method, wherein the schedule-change order comprises (i) a cancellation-order defining an instruction to cancel the schedule and (ii) and a schedule-order defining the modified schedule (col. 7, lines 44-50; col. 8, lines 28-31, the user's device possesses the software capable of obeying the instructions to cancel and replace scheduled advertisements).

Regarding claim 23, Marsh et al. teach the method wherein implementing the change comprises: deleting the schedule; and storing the modified schedule (col. 7, lines 44-50; col. 8, lines 28-31; col. 16, lines 60-64, the method is provided to delete a schedule, store a replacement to the user's computer, and display it consequently).

Regarding claim 24, Marsh et al. teach the method, further comprising: maintaining message-presentation statistics in the subscriber station (col. 14, lines 66-67; col. 15, lines 1-2 and 56-65, the method provides the ability to sustain statistics within the client system); receiving into the subscriber station a request for the message-presentation statistics (col. 8, lines 13-15, the client system may provide the statistics data to the server system for further evaluation); and the subscriber station transmitting the message-presentation statistics to a remote entity (col. 15, lines 1-20, the information is transmitted to the server system).

Regarding claim 25, Marsh et al. teach the method, wherein the request defines a network address of the remote entity (col. 8, lines 13-15, the client system sends request to the server system).

Regarding claim 26, Marsh et al. teach the method, wherein the message comprises an advertisement (col. 6, 30-35; col. 7, lines 40-41).

Regarding claim 27, Marsh et al. teach a subscriber station comprising: a processor (Fig. 2, ref. 209; col. 5, lines 56-59); a data storage medium (Fig. 2, refs. 205, 206; col. 5, lines 59-65); a communications interface (Fig. 1, ref. 102; col. 5, lines 36-41); a message stored in the data storage medium (col. 5, lines 59-67, the client system storage is able to store received messages); a message-presentation schedule stored in the data storage medium and defining a schedule for presentation of the message (col. 7, lines 40-52; col. 14, lines 8-10, the client system hold software able to store schedule presentation for consequent message presentation); a presentation-program stored in the data storage medium and executable by the processor to present the message according to the schedule for presentation of the message (col. 5, lines 50-67, the client system has a computer program executable by the processor); and a management-program stored in the data storage medium and executable by the processor, upon receipt of a schedule-change order via the communications interface, to alter the message-presentation schedule (col. 5, lines 56-67, the computer program may modify parameters), wherein the schedule includes a start-time value that indicates when to start presentation of the message. (col. 16, lines 65-67 and col. 17, lines 1-7).

Regarding claim 28, Marsh et al. teach the subscriber station, further comprising: message-presentation statistics stored in the data storage medium (col. 14, lines 66-67; col. 15, lines 1-2 and 56-65, the method provides the ability to sustain statistics within the client system); and a reporting-program stored in the data storage medium and executable by the processor, upon receipt of a reporting-request via the communications interface, to send the message presentation statistics to a remote

Art Unit: 2681

network entity via the communications interface (col. 8, lines 13-15, the client system may provide the statistics data to the server system for further evaluation; col. 15, lines 1-20, the information is transmitted to the server system) .

Regarding claim 29, Marsh et al. teach the subscriber station, wherein the schedule-change order comprises (i) a cancel-order defining an instruction to cancel the schedule for presentation of the message and (ii) a schedule-order defining a substitute-schedule for presentation of the message (col. 7, lines 44-50; col. 8, lines 28-31, the user's device possesses the software capable of obeying the instructions to cancel and replace scheduled advertisements), and wherein: the management-program is executable by the processor, in response to the cancel-order, to cancel the schedule for presentation of the message (col. 7, lines 44-50; col. 8, lines 28-31; col. 16, lines 60-64, the user's computer may react to a deletion of a schedule and consequently storing a new one into its memory for subsequent presentation); and the management-program is executable by the processor, in response to the schedule order, to store the substitute-schedule in the data storage medium (col. 7, lines 44-50; col. 8, lines 28-31; col. 16, lines 60-64, the user's computer may react to a deletion of a schedule and consequently storing a new one into its memory for subsequent presentation).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

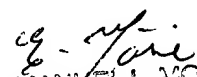
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R Perez whose telephone number is (703) 305-8637. The examiner can normally be reached on 7:00 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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1/31/05


EMMANUEL L. MOISE
PATENT EXAMINER